

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUSTAVO ALVARADO-GUERRERO,

Defendant.

8:16CR307

ORDER

This matter is before the Court on Defendant's correspondence, filed as a Motion for Clarification, ECF No. 139. The motion is granted as follows.

Defendant questions why time served on a state offense was not credited toward his federal sentence, and why time in federal custody was not credited as time served. He also requests contact information for the United States Attorney's Office so that he may attempt to negotiate a reduced sentence.

On June 26, 2017, Defendant pleaded guilty to conspiracy to distribute, and possession with intent to distribute, methamphetamine. ECF No. 79. On October 23, 2017, he was sentenced to 188 months incarceration with five years of supervised release to follow. J., ECF No. 120 at Page ID 314–15. When Defendant was sentenced, the Court recommended to the Bureau of Prisons (BOP) that Defendant receive credit for time served. *Id.* at 314.

The calculation of the amount of time served to be credited "is properly left to the Bureau of Prisons." *United States v. Pardue*, 363 F.3d 695, 699 (8th Cir. 2004) (citations omitted). If Defendant believes the BOP erred in its determination, he may follow the BOP's administrative procedures to seek a review of these calculations, and upon

exhaustion of these procedures, Defendant may file a habeas petition under 28 U.S.C. § 2241. *Id.*

If Defendant believes there is a legal basis for a reduction of his sentence, he may file a motion with the Court seeking such relief.

Accordingly,

IT IS ORDERED:

1. Defendant's Motion for Clarification, ECF No. 139, is granted, and clarification is provided above;
2. The Clerk will mail a copy of this Order to the Defendant at his last known address.

Dated this 23rd day of June, 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge